



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

CCB/146641

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**PRELIMINARY RECITALS**

Pursuant to a petition filed January 16, 2013, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Kenosha County Human Service Department in regard to Child Care Benefits (CCB), a telephonic hearing was held on April 09, 2013, at Kenosha, Wisconsin.

The issue for determination is whether the agency correctly denied petitioner's application for CCB for failing to verify earned income.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Children and Families  
201 East Washington Avenue  
Madison, Wisconsin 53703

By: Karen Mayer

Kenosha County Human Service Department  
8600 Sheridan Road  
Kenosha, WI 53143

**ADMINISTRATIVE LAW JUDGE:**

Kelly Cochrane  
Division of Hearings and Appeals

### FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County.
2. On October 20, 2012 petitioner applied for CCB. See Exhibit 4.
3. On October 29, 2012 the agency issued a request for verification of petitioner's earned income from the last 30 days. The information was due back to the agency by November 7, 2012. See Exhibit 1. The requested information was not received by the agency on the due date.
4. On November 12, 2012 the agency completed an interview with petitioner by phone. On November 13, 2012 the agency issued another request for verification of petitioner's earned income from the last 30 days. The information was due back to the agency by November 19, 2012. See Exhibit 2.
5. On November 20, 2012 the petitioner provided checkstubs from her employer, but they were not from the last 30 days.
6. On November 29, 2012 the agency issued a request for verification of petitioner's earned income from the last 30 days, this time also specifically stating that they needed November's pay stubs. The information was due back to the agency by December 2, 2012. See Exhibit 3.
7. On December 5, 2012 petitioner provided the requested income verification.
8. On December 11, 2012 the agency issued a notice of decision stating that her CCB was denied. See Exhibit 6.

### DISCUSSION

Wis. Stat. §49.155 authorizes the Department of Children and Families to operate a child care subsidy for Wisconsin Works (W-2) recipients and working parents. The Department has a Child Care Policy Manual (Manual) that provides the specific policies for the program. See <http://dcf.wisconsin.gov/childcare/wishares/pdf/chapter1.pdf>. A parent is eligible for child care if it is necessary for him or her to work, attend school, or to attend W-2 activities. Wis. Stat., §49.155(1m)(a). In addition to such nonfinancial requirements, the child care subsidy also has financial requirements, which includes meeting the income limit guidelines. The income limit for new applicants, including cases that have closed for more than thirty days, is 185% federal poverty level (FPL) for the Assistance Group family size. See *Manual* §1.6.2.

The Wisconsin Works or County/Tribal Human Service agency may request any information that is necessary and appropriate in order to make a correct eligibility decision. See *Manual* §1.7.1. The eligibility determining agency must verify the level of income. See *Manual* §1.7.2. The Wisconsin Shares child care assistance applicant has the primary responsibility for providing verification and resolving questionable information. See *Manual* §1.7.3. The applicant must be informed in writing of the verification items that are needed along with a due date. See *Manual* §1.7.4. The applicant has seven (7) business days from the date the verification request is made to submit the needed verification to the Wisconsin Works or County/Tribal Human services agency. If extenuating circumstances exist that make the verification requirements unduly burdensome, the Wisconsin Works or County/Tribal agencies may extend the verification due date to thirty (30) calendar days from the applicant filing date. See *Manual* §1.7.5. If the applicant is able to produce the information, but refuses or fails to do so, no eligibility shall exist. If the applicant fails or refuses to provide verification, the Wisconsin Shares child care assistance application may be denied or the case may be closed. No eligibility shall exist when an individual has the power to produce required verification, but refuses or fails to do so. See *Manual* §1.7.7.

In this case the agency failed to follow the policy in terms of requesting the required income information within 7 days. The November 13 request only gave petitioner 6 days to verify. She provided verification

on the 7<sup>th</sup> day, which would have been timely. However, because that verification was not adequate for the agency to determine eligibility, it issued another verification request on November 29. The agency then only gave her 3 days to provide that information with a due date of December 2. The agency did initially request the information on October 29, 2012 and gave her adequate time to verify, however, the petitioner's direct testimony was that she never received that request. This testimony is corroborated by the agency's Case Comments (Exhibit 5) which shows that the due dates were extended because it appeared to the case worker that the request did not appear to have been sent to petitioner. Given this, I must find that the agency did not meet its burden to show that it correctly denied her application for CCB.

### **CONCLUSIONS OF LAW**

The agency has not met its burden to show that it correctly denied petitioner's application for CCB for failing to verify earned income.

**THEREFORE, it is**

### **ORDERED**

That the matter be remanded to the child care agency with the following instructions: (1) redetermine petitioner's child care eligibility pursuant to her application of October 20, 2012 (2) issue a notice of decision regarding same, and (3) issue appropriate reimbursement if determined eligible. These actions are to be taken within twenty (20) days of the date of this decision.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

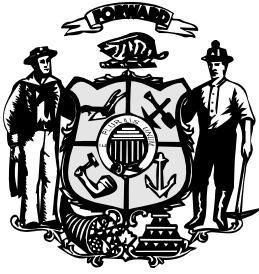
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Children and Families. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 201 East Washington Avenue, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 10th day of May, 2013

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\s\sKelly Cochrane  
Administrative Law Judge  
Division of Hearings and Appeals



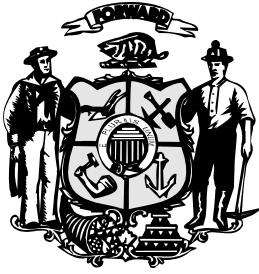
**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on May 10, 2013.

Kenosha County Human Service Department  
Child Care Benefits



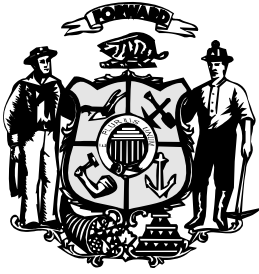
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